

Public Information and Records Integrity Branch  
Office of Pesticide Programs  
Environmental Protection Agency (7502C)  
1200 Pennsylvania Ave NW  
Washington, DC 20460-0001

Attention: Docket ID Number OPP-2003-0010

To whom it may concern,

For many years the U.S. Environmental Protection Agency, along with the National Marine Fisheries Service and the Fish and Wildlife Service (jointly the Services), have failed to adequately protect endangered fish, birds and other organisms from the harmful effects of pesticides. Now to catch up on the backlog, it appears that EPA and the Services are trying to side step the law instead of fulfilling their collective duty.

In July 2002, a federal court judge ordered the EPA to initiate consultations with the National Marine Fisheries Service on protection of salmon from 54 pesticides. Consultation is a process required under the Endangered Species Act (ESA); any agency that regulates or performs actions that could harm endangered species (i.e. EPA's regulation of pesticide use) must consult with the agencies charged with protecting wildlife, either the U.S. Fish and Wildlife Service or the National Marine Fisheries Service (collectively the Services). This consultation process creates checks and balances.

Proposed rules, released by U.S. Environmental Protection Agency, National Marine Fisheries Service and Fish and Wildlife Service on January 24, 2003 take away much needed checks and balances in the consultation process. The EPA would be given unilateral decision making power to determine the risk of many pesticides to endangered species. Thus, removing authority from the Services charged with protecting wildlife.

It would be irresponsible of the Services to defer to the EPA the determination of the effects of pesticides on endangered species. The EPA's track record on protecting endangered species is appalling. Its backlog of pesticides requiring consultation is due to years of non-compliance with the ESA. Rarely has the EPA assessed the risk of pesticides to endangered species. The few times it did assess the risks, it did nothing to protect the species from the risks found. Obviously, the EPA has not demonstrated either the will or the capability of taking on the awesome responsibility of ensuring protection of imperiled wildlife from pesticides. The ESA is the only act whose sole purpose is to protect species on the brink of extinction. By weakening ESA, salmon, snowy plovers and many other species lose what little legal protection they have. Instead of trying to change the process to protect species, and in so doing weaken the intent of the ESA, the EPA must simply begin to perform its duty and consult with the Services.

Sincerely,

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